IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07/07/2004

CORAM

THE HONOURABLE MR. JUSTICE A.K. RAJAN

W.P.No. 15817 of 1997

R.Thirunavukarasu .. Petitioner

-Vs-

The Registrar
University of Madras
Chepauk
Madras 5. .. Respondent

!For Petitioner .. Mr. A.M.Loganathan

^For Respondent .. Mr. N.Rajan

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus as stated therein.

:O R D E R

The prayer in the writ petition is to direct the respondent to promote the petitioner to the post of Assistant (Special Grade) as per the Service Rules and Regulations of the University of Madras.

2. The case of the petitioner is that he was appointed in the year 1968 as Junior Assistant and by a resolution of the Syndicate passed on 15.7.1994 the designation of Junior Assistant has been modified as Assistant and they have the right to draw the salary in the scale of Rs.1640-60-2600-75-2900. Therefore, the petitioner has been designated as Assistant and he is entitled to Selection Grade pay on completion of ten years of service from the date of appointment as Junior Assistant. But, the petitioner has not been given the salary of Assistant (Selection Grade) after completion of ten years of service, and hence the present petition.

3. No counter has been filed by the respondent.

4. The learned counsel for the respondent submits that the petitioner is not qualified to be appointed as Assistant (Selection Grade) since he has not completed SSLC. A person who has not completed SSLC cannot

be given Assistant (Selection Grade) and there is also an entry in the Service Register of the petitioner to that effect.

5. The University has sent a Communication, dated 4.10.1994, to the petitioner, which is as follows:

"Sub: ESTT... Junior Assistant... Change of nomenclature as Assistant...regarding.

THIRU R.THIRUNAVUKKARASU, Junior Assistant, is informed that the Syndicate at its meeting held on 15th July, 1994, has resolved that the present incumbents who are working as Junior Assistants are to be designated as Assistants. The incumbents who have put in 10 years of total service as Junior Assistants are to be designated as Assistants (Selection Grade) in the scale of Rs.1640-60-2600-75-2900.
Accordingly, he is designated as Assistant and he is allowed to draw the same basic pay and scale of pay now drawn by him. He will be awarded Selection Grade Promotion after completing 10 years of service from the date of appointment as Junior Assistant subject to the satisfactory performance of work and conduct of the incumbent to be certified by the Officers concerned."

From this, it is seen that the Syndicate has resolved that the incumbents, who are working as Junior Assistants, are designated as Assistants from the date of such resolution. It has also resolved that the incumbents who have put in 10 years of service as Junior Assistant are to be designated as Assistant (Selection Grade) in the scale of Rs.1640-60-2600-75-2900. It is also stated that the petitioner will be awarded Selection Grade promotion after completion of ten years of service from the date of appointment as Junior Assistant.

6. Admittedly, the petitioner was appointed as Junior Assistant in the year 1968 itself. As per the Official Memorandum, dt.7.8.1969 the petitioner was informed that his temporary services were regularised and he was confirmed as Lower Division Clerk with effect from 28.7.1969 subject to medical fitness. From the Official Memorandum it is seen that the petitioner was confirmed as Lower Division Clerk from 28.7.1969. Therefore, the contention that the petitioner was not entitled to the post of Junior Assistant since he has not completed SSLC, is not acceptable. Further, the Official Memorandum, dated 4.10.19 94 is to the effect that the Junior Assistants were designated as Assistants, and therefore confirmation as Junior Assistant would be tantamount to confirmation as Assistant. Therefore, after completion of ten years of service, i.e. from 1969 to 1979, the petitioner is entitled to get Selection Grade pay. But, the respondent has not granted the Selection Grade salary till date to the petitioner. In the circumstances, the petitioner's claim is justifiable and he has got every right to claim the salary payable to Assistant (Selection Grade) from the date on which he completes ten years of service, namely, 1979 onwards.

7. In the result, the writ petition is allowed. No costs.

Considering the fact that he has been retired voluntarily from service, the Order shall be passed within two months from today.

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To
The Registrar
University of Madras
Chepauk
Madras 5.